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Attorney for Defendant
WILLIAM H. SPIKER

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

WILLIAM H. SPIKER,

Defendant.

Case Number: CR 07 – 00462 JCS

DEFENDANT'S PRETRIAL
STATEMENT PER Crim. L.R. 17.1-1(b).

Pursuant to the Court's ORDER FOR PRETRIAL PREPARATION FOR CRIMINAL BENCH TRIAL, the defense submits the within pretrial statement pursuant to Crim L.R. 17.1-1(b).

The defendant is charged by information with two counts related to alleged driving under the influence.

1. COUNT ONE: 36 C.F.R. § 1004.23(a)(1) – Operating a motor vehicle under the influence of alcohol.
2. COUNT TWO: 36 C.F.R. § 1004.23(a)(2) - Operating a motor vehicle with a blood alcohol content at or over 0.08%.

The parties do not agree on any facts in this case.

Defendant disputes that he drove a vehicle while impaired by alcohol and that the defendant drove a vehicle with a blood alcohol content over the legal limit.

3. COUNT ONE: 36 C.F.R. § 1004.23(a)(1) – Operating a motor vehicle under the influence of alcohol. This charge requires the government prove the defendant drove a vehicle while impaired by alcohol such that he could not drive the vehicle with the same care and caution of a sober person under similar circumstances.
4. COUNT TWO: 36 C.F.R. § 1004.23(a)(2) - Operating a motor vehicle with a blood alcohol content over 0.08%. This charge requires the government to prove that at the time the defendant was driving a vehicle his blood alcohol content was at or over the legal limit of 0.08%.

The defense does not agree or stipulate that the defendant's blood was drawn in a medically approved manner; that the person that drew the blood was medically trained to take blood samples; that the blood in the vial analyzed was that of the defendant; that the blood drawn was placed in a vial containing the appropriate medically approved preservative and anticoagulant; nor does the defense agree that the chain of custody of said sample was maintained intact.

Respectfully Submitted,

Dated: October 30, 2007

/s/ Hugh Anthony Levine

Attorney for Defendant